

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALTON KING,

No. C 07-3866 SI (pr)

Petitioner,

ORDER OF DISMISSAL

v.

LAURIE SMITH, Sheriff,


Respondent.

The petition for writ of habeas corpus filed to commence this action is the same as the petition filed by petitioner about six weeks earlier to commence King v. Smith, No. 07-2936 SI. Although the petitions have different signature dates, they both challenge the same conviction, assert the same claims, and have the same arguments. "A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed." 28 U.S.C. § 2244(b)(1); cf. Cato v. United States, 70 F.3d 1103, 1106 n.2 (9th Cir. 1995) (pauper complaint that duplicates an earlier one is legally frivolous and may be dismissed).

This action is dismissed because the claims in the petition duplicate those contained in the earlier-filed petition. The clerk shall close the file.

IT IS SO ORDERED.

DATED: October 17, 2007



SUSAN ILLSTON
United States District Judge